

AMENDED IN SENATE APRIL 1, 2004

SENATE BILL

No. 1856

Introduced by Senator Bowen

February 20, 2004

~~An act to amend Section 5003 of the Public Resources Code, relating to parks and recreation. An act to amend Sections 39011 and 42311.2 of the Health and Safety Code, and to amend Sections 4464 and 4475 of the Public Resources Code, relating to resources.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1856, as amended, Bowen. ~~Parks and recreation~~ *Prescribed burning activities.*

Existing law provides varying definitions of "prescribed burning" for purposes of air pollution control laws and forest protection laws.

This bill would revise those definitions to reconcile the differences and would make related changes.

~~Existing law requires the Department of Parks and Recreation to administer, protect, develop, and interpret the property under its jurisdiction for the use and enjoyment of the public. Existing law authorizes the department to establish rules and regulations, except as specified, not inconsistent with law, for the government and administration of that property. Existing law authorizes the department to expend all moneys of the department, from whatever source derived, for the care, protection, supervision, extension, and improvement or development of that property.~~

~~This bill would require the rules and regulations to be consistent, rather than not inconsistent, with law. The bill would specify that those moneys that the department is authorized to expend are moneys appropriated by the Legislature, and include in the purpose for which~~

~~the moneys may be expended rehabilitation of the property under the department's jurisdiction.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. — Section 5003 of the Public Resources Code is~~
2 ~~SECTION 1. Section 39011 of the Health and Safety Code is~~
3 ~~amended to read:~~
4 39011. ~~(a) “Agricultural burning” means open outdoor fires~~
5 ~~used in agricultural any of the following:~~
6 (a) *Agricultural* operations in the growing of crops or raising
7 of fowl or animals, or open outdoor fires used in forest
8 management, range improvement, or the improvement of land for
9 wildlife and game habitat, or disease or pest prevention.
10 (b) ~~“Agricultural burning” also means open outdoor fires used~~
11 ~~in the~~ The operation or maintenance of a system for the delivery
12 of water for the purposes specified in subdivision (a).
13 (c) ~~“Agricultural burning” also means open outdoor fires used~~
14 ~~in wildland~~ Wildland vegetation management burning. Wildland
15 (1) *For purposes of this subdivision, wildland* vegetation
16 management burning is the use of prescribed burning conducted
17 by a public agency, or through a cooperative agreement or contract
18 involving a public agency, to burn land predominantly covered
19 with chaparral, trees, grass, or standing brush. ~~Prescribed~~
20 (2) *For purposes of this subdivision, prescribed* burning is the
21 planned application ~~of fire to vegetation to achieve any specific~~
22 ~~objective on lands selected in advance of that application. The~~ and
23 ~~confinement of fire to wildland fuels on lands selected in advance~~
24 ~~of that application to achieve any of the following objectives:~~
25 (A) *Prevention of high-intensity wildland fires through*
26 ~~reduction of the volume and continuity of wildland fuels.~~
27 (B) *Watershed management.*
28 (C) *Range improvement.*
29 (D) *Vegetation management.*
30 (E) *Forest improvement.*
31 (F) *Wildlife habitat improvement.*
32 (G) *Air quality maintenance.*

(3) *The* planned application of fire may ~~also~~ include natural or accidental ignition.

SEC. 2. *Section 42311.2 of the Health and Safety Code is amended to read:*

42311.2. (a) Notwithstanding Section 42311, a district shall not adopt or impose fees that exceed actual district administrative costs for processing or enforcing permits applicable to any of the following:

(1) Prescribed burning operations on state responsibility lands conducted under the terms of a permit issued by the Department of Forestry and Fire Protection pursuant to Article 3 (commencing with Section 4491) of Chapter 7 of Part 2 of Division 4 of the Public Resources Code when the purpose of the operation is prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.

(2) Burning of vegetation or disposal of slash following timber operations required under regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4551.5 or 4562 of the Public Resources Code and for the purpose of reducing the incidence and spread of fires on timberlands.

(3) Wildland vegetation management burns.

(A) For purposes of this subdivision, “wildland vegetation management burn” means the use of prescribed burning conducted by a public agency, or through a cooperative agreement or contract involving a public agency to burn land predominantly covered with chaparral, trees, grass, or standing brush. ~~For~~

(B) ~~For purposes of this subdivision, “prescribed burning” is the planned application of fire to vegetation to achieve any specific objective on lands selected in advance of that application. The and~~ *confinement of fire to wildland fuels on lands selected in advance of that application to achieve any of the following objectives:*

(i) *Prevention of high-intensity wildland fires through reduction of the volume and continuity of wildland fuels.*

(ii) *Watershed management.*

(iii) *Range improvement.*

(iv) *Vegetation management.*

(v) *Forest improvement.*

(vi) *Wildlife habitat improvement.*

(vii) *Air quality maintenance.*

1 (c) The planned application of fire may include natural or
2 accidental ignition.

3 (b) Prior to adopting or revising fees for the activities described
4 in paragraph (1), (2), or (3) of subdivision (a), a district shall hold
5 a public hearing and shall consider the following:

6 (1) The costs of the fees on private landowners and other
7 persons who engage in activities specified in paragraph (1), (2), or
8 (3) of subdivision (a).

9 (2) Any revenues currently provided to the county for general
10 government by public agencies ~~which~~ *that* administer public
11 lands.

12 *SEC. 3. Section 4464 of the Public Resources Code is*
13 *amended to read:*

14 4464. Unless the context clearly requires otherwise, the
15 following definitions govern the construction of this chapter:

16 (a) “Wildland” means any land that is classified as a state
17 responsibility area pursuant to Article 3 (commencing with
18 Section 4125) of Chapter 1 ~~of this part~~ and includes any ~~such~~ land
19 having a plant cover consisting principally of grasses, forbs, or
20 shrubs that are valuable for forage. “Wildland” also means any
21 lands that are contiguous to lands classified as a state responsibility
22 area if wildland fuel accumulation is such that a wildland fire
23 occurring on these lands would pose a threat to the adjacent state
24 responsibility area.

25 (b) “Wildland fuel” means any timber, brush, grass, or other
26 flammable vegetation, living or dead, standing or down.

27 (c) “Wildland fire” means any uncontrolled fire burning on
28 wildland.

29 (d) “Prescribed burning” or “prescribed burning operation”
30 means the planned application and confinement of fire to wildland
31 fuels on ~~wildland~~ lands selected in advance of ~~such that~~
32 application to achieve any ~~specific objective and any necessary~~
33 ~~followup activities, such as revegetation and erosion control~~
34 ~~measures.~~ *of the following objectives:*

35 (1) *Prevention of high-intensity wildland fires through*
36 *reduction of the volume and continuity of wildland fuels.*

37 (2) *Watershed management.*

38 (3) *Range improvement.*

39 (4) *Vegetation management.*

40 (5) *Forest improvement.*

1 (6) *Wildlife habitat improvement.*

2 (7) *Air quality maintenance.*

3 (e) “Prescribed burn crew” means personnel and firefighting
4 equipment of the department that are prepared to contain fire set
5 in a prescribed burning operation and to suppress any fire that
6 escapes during a prescribed burning operation.

7 (f) “Person” means any natural person, firm, association,
8 partnership, business trust, corporation, limited liability company,
9 company, or combination thereof, or any public agency other than
10 an agency of the federal government.

11 *SEC. 4. Section 4475 of the Public Resources Code is*
12 *amended to read:*

13 4475. The director, with the approval of the Director of
14 General Services, may enter into a contract for prescribed burning
15 with (1) the owner or any other person who has legal control of any
16 property or (2) any public agency with regulatory or natural
17 resource management authority over any property ~~which~~ *that* is
18 included within any wildland for any of the following purposes,
19 or any combination thereof:

20 (a) Prevention of high-intensity wildland fires through
21 reduction of the volume and continuity of wildland fuels ~~or~~
22 ~~removal of unwanted, unused, or deteriorated structures that are~~
23 ~~fire hazards by burning such fuels or structures.~~

24 (b) Watershed management.

25 (c) Range improvement.

26 (d) Vegetation management.

27 (e) Forest improvement.

28 (f) Wildlife habitat improvement.

29 (g) *Air quality maintenance.*

30 No contract may be entered into pursuant to this section unless
31 the director determines that the public benefits estimated to be
32 derived from the prescribed burning pursuant to the contract will
33 be equal to or greater than the foreseeable damage that could result
34 from the prescribed burning.

35 ~~amended to read:~~

36 ~~5003. The department shall administer, protect, develop, and~~
37 ~~interpret the property under its jurisdiction for the use and~~
38 ~~enjoyment of the public. Except as provided in Section 18930 of~~
39 ~~the Health and Safety Code, the department may establish rules~~
40 ~~and regulations consistent with law for the government and~~

1 ~~administration of the property under its jurisdiction. The~~
2 ~~department may expend all moneys of the department~~
3 ~~appropriated by the Legislature, from whatever source derived, for~~
4 ~~the care, protection, supervision, extension, rehabilitation, and~~
5 ~~improvement or development of the property under its~~
6 ~~jurisdiction.~~

